

104TH CONGRESS
2D SESSION

S. 2172

To provide for the appointment of a Special Master to meet with interested parties in Alaska and make recommendations to the Governor of Alaska, the Alaska State Legislature, the Secretary of Agriculture, the Secretary of the Interior, and the United States Congress on how to return management of fish and game resources to the State of Alaska and provide for subsistence uses by Alaskans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 1996

Mr. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the appointment of a Special Master to meet with interested parties in Alaska and make recommendations to the Governor of Alaska, the Alaska State Legislature, the Secretary of Agriculture, the Secretary of the Interior, and the United States Congress on how to return management of fish and game resources to the State of Alaska and provide for subsistence uses by Alaskans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 The Congress finds that—

1 (a) the State of Alaska received management
2 authority and responsibility for fish and game re-
3 sources in the State at the time of statehood;

4 (b) the Alaska constitution requires equal ac-
5 cess for all citizens of the state to these fish and
6 game resources;

7 (c) the State of Alaska developed statutes to
8 implement a rural subsistence priority;

9 (d) in 1980 Congress passed the Alaska Na-
10 tional Interest Lands Conservation Act providing
11 that the “taking on public lands of fish and wildlife
12 for nonwasteful subsistence uses shall be accorded
13 priority over the taking on such lands of fish and
14 wildlife for other purposes”;

15 (e) in 1989 the Alaska Supreme Court ruled in
16 McDowell v. Alaska that the rural preference con-
17 tained in the State’s subsistence statute violated the
18 equal access provision of the Alaska Constitution
19 putting the State’s subsistence program out of com-
20 pliance with title VIII of ANILCA resulting in the
21 Secretaries of Agriculture and the Interior assuming
22 subsistence management on the public lands in Alas-
23 ka;

24 (f) the Governor and the Lieutenant Governor
25 of Alaska are to be complimented on their several

1 attempts to resolve the issue and return manage-
2 ment responsibilities of fish and game back to the
3 State; however, these efforts have not been success-
4 ful;

5 (g) there continues to remain an impasse that
6 is creating a divisive atmosphere in Alaska among
7 sport hunters, sport fishermen, commercial fisher-
8 men, Alaska Natives, as well as urban and rural
9 residents; and

10 (h) the Congress hereby declares that it is time-
11 ly and essential to conduct a review of Federal and
12 State policies and programs affecting subsistence in
13 order to identify specific actions that may be taken
14 by the United States and the State of Alaska to help
15 assure that a fair subsistence priority is provided to
16 the citizens of Alaska and that management author-
17 ity over fish and game resources is maintained by
18 the State of Alaska.

19 **SEC. 2. APPOINTMENT OF SPECIAL MASTER.**

20 (a)(1) The President shall hereby appoint a Special
21 Master to mediate the issues involved in this impasse, and

22 (2) In making the appointment of the Special Master,
23 the President shall give careful consideration to rec-
24 ommendations submitted by the Governor of the State of

1 Alaska and the president of the Alaska State Senate, and
2 the Speaker of the Alaska State House.

3 (b)(1) The principal office of the Special Master shall
4 be in the State of Alaska.

5 (2) The Special Master shall—

6 (A) review existing State and Federal laws re-
7 garding subsistence use in Alaska; and

8 (B) after consultation with all interested par-
9 ties, including, but not limited to, Alaska natives,
10 sport and commercial fishing interests, sport hunt-
11 ing groups, recreation groups, the Governor of Alas-
12 ka, the Alaska legislature, the Secretaries of Agri-
13 culture and the Interior, and the members of the
14 Alaska Congressional delegation, recommend specific
15 actions to the Congress and to the State of Alaska
16 including state statutory amendments, changes in
17 existing management structures, constitutional
18 amendments, and changes to title VIII of ANILCA,
19 that—

20 (i) assure the State of Alaska recovers and
21 retains management authority and responsibil-
22 ity for fish and game on all lands in Alaska;
23 and

24 (ii) provide for the continuation of the op-
25 portunity for subsistence uses by residents of

1 Alaska, including both Natives and non-natives,
2 on the public lands and by Alaska Natives on
3 Native lands which is essential for Native phys-
4 ical, economic, traditional, and cultural exist-
5 ence and to non-native physical, economic, tra-
6 ditional, and social existence.

7 (c) Submit, by no later than the date that is six
8 months after appointment, a report on the recommenda-
9 tions developed under paragraph (2), to the Secretary, the
10 Congress, the Governor of the State of Alaska, and the
11 legislature of the State of Alaska, and make such report
12 available to the public.

13 (d) The Special Master shall have the power to pro-
14 cure, as authorized by section 3109 of title 5, United
15 States Code, temporary and intermittent services to the
16 same extent as is authorized by law for agencies in the
17 executive branch, but at rates not to exceed the daily
18 equivalent of the maximum annual rate of basic pay in
19 effect for grade GS-18 of such General Schedule.

20 (e) Service as a Special Master shall not be consid-
21 ered as service or employment bringing such individual
22 within the provisions of any Federal law relating to con-
23 flicts of interest or otherwise imposing restrictions, re-
24 quirements, or penalties in relation to the employment of
25 persons, the performance of services, or the payment or

1 receipt of compensation in connection with claims, pro-
2 ceedings, or matters involving the United States. Service
3 as a Special Master, shall not be considered service in an
4 appointive or elective position in the Government for pur-
5 poses of section 8344 of title 5, United States Code, or
6 comparable provisions of Federal law.

7 (f)(1) The Special Master is authorized to—

8 (A) hold such hearings and sit and act at such
9 times,

10 (B) take such testimony,

11 (C) have such printing and binding done,

12 (D) enter into such contracts and other ar-
13 rangements,

14 (E) make such expenditures, and

15 (F) take such other actions, as the Special Mas-
16 ter may deem advisable.

17 (2) The Special Master is authorized to establish task
18 forces which include individuals appointed for the purpose
19 of gathering information on specific subjects identified by
20 the Special Master as requiring the knowledge and exper-
21 tise of such individuals. No compensation may be paid to
22 members of a task force solely for their service on the task
23 force, but the Special Master may authorize the reim-
24 bursement of members of a task force for travel and per
25 diem in lieu of subsistence expenses during the perform-

1 ance of duties while away from the home, or regular place
2 of business, of the member, in accordance with subchapter
3 I of chapter 57 of title 5, United States Code. The Special
4 Master shall not authorize the appointment of personnel
5 to act as staff for the task force.

6 (3) The Special Master is authorized to accept gifts
7 of services, or funds and to expend funds derived from
8 sources other than the Federal Government, including the
9 State of Alaska, private nonprofit organizations, corpora-
10 tions, or foundations which are determined appropriate
11 and necessary to carry out the provisions of this section.

12 (4) The Special Master is authorized to secure di-
13 rectly from any officer, department, agency, establish-
14 ment, or instrumentality of the Federal Government such
15 information as the Special Master may require for the pur-
16 pose of this section, and each such officer, department,
17 agency, establishment, or instrumentality is authorized
18 and directed to furnish, to the extent permitted by law,
19 such information, suggestions, estimates, and statistics di-
20 rectly to the Special Master, upon request.

21 (g) The provisions of the Federal Advisory Commit-
22 tee Act shall not apply to the Special Master established
23 under this section.

24 (h) Upon the request of the Special Master, the head
25 of any Federal department, agency, or instrumentality is

1 authorized to make any of the facilities and services of
2 such department, agency, or instrumentality available to
3 the Special Master and detail any of the personnel of such
4 department, agency, or instrumentality to the commission,
5 on a nonreimbursable basis, to assist the Special Master
6 in carrying out its duties under this section.

7 (i) The Special Master may use the United States
8 mails in the same manner and under the same conditions
9 as other departments and agencies of the United States.

10 (j) The Special Master shall cease to exist on the date
11 that is one hundred and eighty days after the date on
12 which the Special Master submits the report required
13 under subsection (c)(5). All records, documents, and mate-
14 rials of the Special Master shall be transferred to the Na-
15 tional Archives and Records Administration on the date
16 on which the Special Master ceases to exist.

17 (k) There is authorized to be appropriated to the Spe-
18 cial Master \$250,000 to provide for the salaries and ex-
19 penses to carry out the provisions of this section. Such
20 sum shall remain available, without fiscal year limitation,
21 until expended.

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